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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,432	07/25/2003	Todd Frankel	FRANKEL.T.PT1	2347

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/627,432	FRANKEL, TODD	
	Examiner	Art Unit	
	James F. Hook	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7-25-03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 11, 12, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Armond. The patent to Armond discloses the recited apparatus for separately dispensing clean water and a concentrate solution detachably attached to a water emitting device comprising a body chamber 18, attached to a water emitting device such as a threaded pipe for a shower, a first outlet for exit of normal water flow 16, and a diverter valve 20, a reservoir 84 to hold the concentrated fluid connected to the body chamber, an exit tube for releasing mixed water and concentrate solution 62 having a second outlet 58 for exit of the concentrate solution, a means for attaching the apparatus to the water emitting device 34, 12, 14, concentrate is drawn by from the reservoir through tube 76, a cut off valve for controlling flow of the concentrate 66 is also provided, the water concentrate mix does not contaminate the water only outlet 16, solution is blocked from coming out when the valve is set such that water flows only through first outlet 16 when concentrate cannot be drawn up without water flow through pipe 62, concentrate is drawn out by venturi effect, the reservoir can be refilled through removable cap 88, and where the concentrate is a soap, which is at least one concentrate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armond. The patent to Armond discloses all of the recited structure with the exception of using a button type diverter valve. It is considered an obvious choice of mechanical expedients to utilize any equivalent type of diverter valve including one using a button where such would only require routine skill in the art to use any type of actuation for the valve including a button or a handle.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armond in view of Williams. The patent to Armond discloses all of the recited structure with the exception of providing means to attach the apparatus to a faucet. The patent to Williams discloses that it is old and well known in the art to provide a dispenser for connection to a faucet including O-rings 26, where such is also used with a shower type element C. It would have been obvious to one skilled in the art to modify the connection in Armond to allow for connection to a faucet as suggested by Williams as such would allow for greater diversity and make the apparatus more useful when such could be used in a shower or a sink thereby saving the user money by allowing the apparatus to be used on other fixtures.

Claims 8, 9, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armond in view of Smith. The patent to Armond discloses all of the recited structure with the exception of providing a plurality of separate valves, reservoirs, concentrates and outlets for a plurality of concentrated fluids, and providing flow adjuster valves, although the extra valve of Armond 66 could be considered an adjuster valve between concentrate flow and no concentrate flow. The patent to Smith discloses that it is old and well known to provide shower head dispensing fixtures with a plurality of concentrates provided with a plurality of reservoirs for the concentrates (figs 4 and 5), valves for control of concentrate flow 22-24, diverter valve 20 for water control. It would have been obvious to one skilled in the art to provide a plurality of concentrates and reservoirs and to provide a plurality of flow control valves for each to control the flow of concentrate, as suggested by Smith where such would allow for a plurality of mixed concentrates rather than one which would increase the usefulness of the article and would save money. Providing a plurality of exit tubes are merely a duplication of parts, and based on the teachings of Armond of a separate outlet for the mixture from the normal water outlet, providing a plurality of outlets would allow for the same prevention of mixing the clean water with the concentrate mixture, where one skilled in the art would require only routine skill to provide a plurality of outlets as such is a mere duplication of parts.

Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armond in view of O'Hare. The patent to Armond discloses all of the recited structure with the exception of providing a filter with the apparatus and making the

Art Unit: 3754

reservoir disposable. The patent to O'Hare discloses that it is old and well known to provide shower mixing and dispensing apparatus with a filter 192, and to form the reservoirs as seen in figure 3 which shows a threaded connection, that the reservoirs can be removable and therefore disposable. It would have been obvious to one skilled in the art to modify the apparatus in Armond by providing a filter to prevent sediment from getting in the apparatus, and to form the reservoir in a removable and hence disposable manner to allow for quicker replacement instead of refilling as such is an old and well known way to refill a dispensing apparatus, as suggested by O'Hare where such would prevent failure and save replacement costs of the apparatus and would allow for easier changing and refilling by using a replaceable reservoir rather than a refillable one.

Conclusion

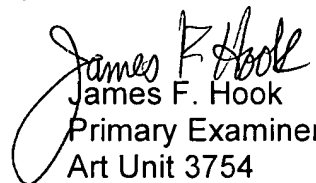
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Gilmour, New, Davison, Fugent, Gasaway, Homan, Decker, Kidd, and Hudson disclosing state of the art dispensers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH